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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SAMI KHAL,

Plaintiff,

vs.

MONSANTO COMPANY, a foreign
corporation and DOES 1 through 10,
inclusive, and ROE ENTITIES 1 through 10,
inclusive,

Defendants.

CASE NO.

**DEFENDANT MONSANTO
COMPANY'S NOTICE OF REMOVAL**

DEFENDANT MONSANTO COMPANY'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (and any other applicable laws), Defendant Monsanto Company ("Monsanto") hereby gives notice of removal of this action, captioned *Sami Khal v. Monsanto Company*, bearing case number A-20-823702-C, from the District Court of Clark County, Nevada to the United States District Court for the District of Nevada. Pursuant to 28 U.S.C. § 1446(a), Monsanto provides the following statement of grounds for removal.

Introduction

1. In this products liability lawsuit, Plaintiff Sami Khal sues Monsanto for injuries allegedly caused by Monsanto's Roundup®-branded herbicides, which have glyphosate as their

1 active ingredient. For decades, farmers have used glyphosate-based herbicides to increase crop
 2 yields, and home-owners, landscaping companies, and local government agencies have used these
 3 herbicides for highly effective weed control. Glyphosate is one of the most thoroughly studied
 4 herbicides in the world, and glyphosate-based herbicides have received regulatory approval in
 5 more than 160 countries. Since 1974, when Monsanto first introduced a Roundup®-branded
 6 herbicide to the marketplace, the United States Environmental Protection Agency repeatedly has
 7 concluded that glyphosate does not cause cancer – including as recently as January 2020.
 8 Nevertheless, Plaintiff alleges that he developed cancer – specifically, lymphocytic leukemia –
 9 caused by exposure to Monsanto’s glyphosate-based herbicides.

10 2. This is one of many lawsuits that have been filed against Monsanto involving
 11 Roundup®-branded herbicides. A multidistrict litigation proceeding is pending in the United
 12 States District Court for the Northern District of California, before the Honorable Vince G.
 13 Chhabria, pursuant to 28 U.S.C. § 1407. *See In re Roundup Prods. Liab. Litig.*, No. 3:16-md-
 14 02741-VC (N.D. Cal.); *In re Roundup Prods. Liab. Litig.*, MDL No. 2741, 214 F. Supp. 3d 1346
 15 (J.P.M.L. 2016).

16 3. As discussed in more detail below, Monsanto removes this lawsuit because this
 17 Court has subject matter jurisdiction based on diversity of citizenship. Plaintiff is a Nevada
 18 citizen. For purposes of diversity jurisdiction, Monsanto is deemed to be a citizen of Missouri
 19 (where its principal place of business is located) and Delaware (Monsanto’s state of
 20 incorporation). Accordingly, complete diversity of citizenship exists in this case as required by
 21 28 U.S.C. § 1332. The statutory amount-in-controversy requirement is also satisfied because
 22 Plaintiff seeks damages for cancer allegedly caused by exposure to Monsanto’s Roundup®-
 23 branded herbicides.

24 **Background and Procedural History**

25 4. Plaintiff commenced this lawsuit in the District Court of Clark County, Nevada by
 26 filing a Complaint, captioned *Sami Khal v. Monsanto Company*, case number A-20-823702-C, on
 27 or about October 26, 2020 (the “State Court Action”).
 28

1 5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of the Summons and
2 Complaint served upon Monsanto in the State Court Action are attached as **Exhibit 1**. Plaintiff
3 seeks damages for lymphocytic leukemia allegedly caused by exposure to Monsanto's
4 glyphosate-based herbicides. *See, e.g.*, Complaint ¶¶ 7-8, 34-35, 37, 44-45, 50-51, 63-64, 79.

5 **Basis For Removal – Diversity Jurisdiction**

6 6. Plaintiff is, and was at the time the State Court Action was filed, a Nevada resident
7 and citizen. *See* Complaint ¶ 1; Westlaw Report Regarding Mr. Khal (excerpts attached as
8 **Exhibit 2**).

9 7. Monsanto is, and was at the time the State Court Action was filed, a corporation
10 incorporated under the laws of the State of Delaware, with its principal place of business in the
11 State of Missouri. Complaint ¶ 2. Thus, Monsanto is deemed to be a citizen of Missouri and
12 Delaware, for purposes of diversity jurisdiction.

13 8. The Complaint seeks compensatory and punitive damages based on the allegations
14 that Monsanto's Roundup[®]-branded herbicides caused Plaintiff to develop cancer. Therefore, it is
15 plausible that Plaintiff seeks damages in excess of \$75,000, exclusive of interest and costs, which
16 satisfies the jurisdictional amount-in-controversy requirement. 28 U.S.C. § 1332(a); *see Dart*
17 *Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014) (“[A] defendant's notice of
18 removal need include only a plausible allegation that the amount in controversy exceeds the
19 jurisdictional threshold.”); *see also Ross v. First Family Fin. Servs., Inc.*, No. 2:01CV218-P-B,
20 2002 WL 31059582, at *8 (N.D. Miss. Aug. 29, 2002) (“[U]nspecified claims for punitive
21 damage sufficiently serve to bring the amount in controversy over the requisite jurisdictional
22 threshold set out in 28 U.S.C. § 1332.”). In fact, numerous other lawsuits seeking damages for
23 cancer allegedly caused by Roundup[®]-branded herbicides have been filed against Monsanto in
24 other federal courts asserting jurisdiction under Section 1332(a) and alleging damages in excess
25 of \$75,000, exclusive of interest and costs.

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1 9. In sum, this Court has original subject matter jurisdiction over this action based on
2 Section 1332(a) because there is complete diversity of citizenship between Plaintiff and
3 Monsanto, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.¹

4 **Procedural Requirements**

5 10. The District Court of Clark County, Nevada is located within the District of
6 Nevada. Therefore, removal to this Court satisfies the venue requirement of 28 U.S.C. § 1446(a).

7 11. Monsanto received notice of process in the State Court Action on November 6,
8 2020. This Notice of Removal is timely, in accordance with 28 U.S.C. § 1446(b)(1), because it
9 is being filed within 30 days of November 6, 2020.

10 12. The written notice required by 28 U.S.C. § 1446(d) will be promptly filed in the
11 District Court of Clark County, Nevada and will be promptly served on Plaintiff.

12 13. Monsanto does not waive any legal defenses and expressly reserves its right to
13 raise any and all legal defenses in subsequent proceedings.

14 14. If any question arises as to the propriety of this removal, Monsanto requests the
15 opportunity to present written and oral argument in support of removal.

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¹ The citizenship of “Doe” and “Roe” defendants must be disregarded when determining whether this lawsuit is removable based on Section 1332(a). *See* 28 U.S.C. § 1441(b)(1).

Conclusion

For the foregoing reasons, Monsanto removes this lawsuit to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (and any other applicable laws).

Dated: November 30, 2020.

EVANS FEARS & SCHUTTERT LLP

By: /s/ Kelly A. Evanss

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Attorneys for Defendant Monsanto Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT MONSANTO COMPANY'S NOTICE OF REMOVAL** was served on counsel of record this 30th day of November, 2020 using the Court's CM/ECF System.

/s/ Faith Radford
An Employee of Evans Fears & Schuttert LLP